

Utah Antidiscrimination and Labor Advisory Council  
Meeting Minutes  
February 18, 2010  
12:10 pm to 1:15 pm  
Room 319

In attendance:

Sherrie Hayashi, Commissioner  
Heather Gunnarson, UALD Division Director  
Brent Asay, Wage Claim Unit Manager  
Alan Hennebold, General Counsel/ Deputy Commissioner  
John Chindlund, Employer Representative  
Monica Whalen, Employer Representative  
Sara Danielson, Council Secretary  
Monica Austen-Smith, Employment Discrimination Case Manager  
Dan Singer, Fair Housing Case Manager  
Hap Stephens, ADR Coordinator

Council Members Excused:

Bev Uipi, General Public Representative  
Ralph Chamness, General Public Representative  
Keith Nielson, Landlord Representative

Not in attendance:

Marty Blaustein, Tenant Representative  
John Salazar Sr., Employee Representative  
Lisa Fine, Tenant Representative  
Antonella Packard, General Public Representative  
Paul Smith, Landlord Representative  
Rick Thaler, General Public Representative  
Tony Montano, Employee Representative  
Robert Wilde, Employee Representative

Commissioner Sherrie Hayashi called the council meeting to order at 12:10 pm. She indicated that a quorum was not present.

Discussion Issues:

**Results of Legislative Audit and Agency Response**

Heather reviewed the results of the Legislative Audit that was conducted of the Employment and Housing Discrimination units. She stated that the overall result was

positive. They made some recommendations, but they were more suggestions than mandates. The first recommendation was with regard to age of cases. Heather passed out a chart showing the average age of cases as of February 1, 2010. She explained that the average age of a case is 252 days, and that there are only 4 cases that are very old. She stated that the Division has set the goal of having no cases older than 180 days by October 2012. The sub-goals to reach this are: 450 days by October 2010 and 300 Days by October 2011. She also explained that each investigator is required to close 10 of their oldest cases each quarter. It was also suggested that cases be processed in the order of receipt. Some discussion was held.

The second recommendation was to make the ADR/mediation process an “Opt-In” rather than “opt-out” part of the process. She is concerned that making mediation an “opt-in” part will diminish the success rate. Heather indicated that the Division is going to try this, but evaluate at the end of six months. She did explain that mediation would be available throughout the process. The process will be: Intake, assign an investigator, send out a letter indicating who the investigator is and asking about mediation. Some discussion was held.

The third recommendation was with regard to the Fair Housing procedures. Heather explained that the current process is to investigate, then send the parties a draft determination which includes a section on damages, and then ask them come in for a conciliation conference. It was felt that Respondents might feel that this is a strong arm tactic to get them to settle. Heather explained that preliminary findings will now be issued without the damages portion and with witness names redacted (Witness A) for confidentiality reasons.

### **Current Legislative Session Update –**

**Status of proposed legislation** - Heather reviewed the legislation that is pending. HB 128 (Antidiscrimination Study Related to Employment and Housing); HB 252 (Workplace Accommodation of Breastfeeding); and HB 305 (Antidiscrimination Amendments). She stated that although the Division thought it would be involved with these bills, they are no longer involved with any of the bills. HB 128 and 305 have both been tabled. HB 252 is still pending, but the Division’s responsibility has been removed and a private right of action has been inserted. Some discussion has held.

**Budget Issues** - Sherrie explained that the Commission in general has sustained a 17% budget cut over the last 2 ½ years. The Commission is at the point of having to make difficult decisions about cutting programs, if further budget cuts are required. The previous cuts have been absorbed through not filling vacant positions and careful spending.

### **Update on Proposed Rules and Statutory Changes –**

Brent stated that the Pay Card Rule is anticipated to become effective on March 24, 2010. Some discussion has held regarding how pay stubs are made available to employees.

Brent handed out a copy of the proposed statutory language for uniforms. Sherrie explained that this language makes it an affirmative obligation for employers. She indicated that opposition to making it an affirmative obligation is out there. She wants the council to help hammer out how the Commission should handle uniforms (should it be left in the deduction section of payment of wages or elsewhere). There is no legislation pending this session. Discussion was held.

### **Other Business –**

Sherrie noted the difficulty of getting a quorum of Council Members to the council meetings. She asked for ideas/suggestions on how to make the council more meaningful. Discussion was held. Some of the ideas presented were:

Abolish the council as it currently exists and instead hold interest group meetings on a quarterly basis and convene ad hoc committees when needed.

Change the scope to include labor issues in general and change the make-up/structure of the council to include more stake-holders.

If the council remains as is – change the make-up to be practitioners within the system.

### **2010 Meeting Schedule**

The meeting schedule for 2010, was discussed. It was decided to move the meetings to the first Thursday of the month. So the new dates for the upcoming meetings are: **May 6, 2010; August 5, 2010; and November 4, 2010.** The meetings will begin at 12:00 noon and members are invited to bring their own brown bag lunch.

Sherrie adjourned the meeting at 1:15 pm.